IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 16160 of 2007(W)

PETITIONER:

SMT.ELSY THOMAS, W/O JOSEPH,
AGED 56 YEARS, KUTTAMPARAMBIL HOUSE,
MAYAPPARA KARA, AKAMALAVARAM, AANAKKALLU P.O.,
MALAMPUZHA, PALAKKAD DIST.

BY ADV. SRI.T.V.GEORGE
SRI.K.N.BALACHANDRA KAIMAL

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
REVENUE SECRETARY, GOVT. SECRETARIAT,
TRIVANDRUM.

2. DISTRICT COLLECTOR, CIVIL LINES,
PALAKKAD.

3. TAHSILDAR, TALUK OFFICE,
PALAKKAD.

4. VILLAGE OFFICER, VILLAGE OFFICE,
MALAMPUZHA-I, PALAKKAD.

BY GOVT. PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITOINER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE SALE DEED NO.597/73 DTD. 1-1-73.**
EXT.P2	**TRUE COPY OF THE PURCHASE CERTIFICATE BEARING NO.1894/78 DTD. 29-8-78.**
EXT.P3	**TRUE COPY OF THE TAX PAID RECEIPT FOR THE PERIOD 1995-96**
EXT.P4	**TRUE COPY OF THE NOTICE DTD. 26-5-07 ISSUED BY THE TAHSILDAR, PALAKKAD**
EXT.P5	**TRUE COPY OF THE CERTIFICATE DTD. 20-2-91 ISSUED BY THE DEVELOPMENT OFFICER, RUBBER BOARD, REGIONAL OFFICE, PALAKKAD**
EXT.P6	**TRUE COPY OF THE REPORT DTD. 17-1-03 BEFORE THE DISTRICT COLLECTOR, PALAKKAD**

/True Copy/

PA to Judge.

S. SIRI JAGAN, J.

W.P.(C)NO.16160 OF 2007

DATED THIS THE 15th DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P4 direction issued to him directing him to vacate the properties mentioned in the same. The petitioner's contention is that Ext.P4 was not preceded by any notice, hearing or opportunity to adduce evidence. The learned counsel for the petitioner submits that the Kerala Land Conservancy Act and Rules prescribed certain procedures for eviction of unauthorised occupation of Government land assuming that the property covered is Government land which have not been complied with in this case.

2. The learned Government pleader could not satisfy me that Ext.P4 was preceded by any notice or hearing.

3. Going by the Kerala Land Conservancy Act and Rules occupants of Government land, even if unauthorised, cannot be evicted except after complying with the procedure prescribed. Even for invoking emergency provisions, specific reasons have to be mentioned in the orders passed. Ext.P4 does not contain any such reasons. That being so, Ext.P4 has been issued in violation of the principles of natural justice. Accordingly, Ext.P4 is quashed. If the respondents so wish,

they may initiate fresh proceedings after issuing a notice to the petitioner affording him an opportunity to adduce evidence, hearing him and passing a speaking order.

The writ petition is allowed as above.

S. SIRI JAGAN, JUDGE

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